In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 19521 of 2006

Date of Decision: 08.12.2006

Sanwal Singh

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Ms. Alka Chatrath, Advocate,

for the petitioner.

JUDGMENT

M.M. KUMAR, J.

Notice of motion.

Mr. Anil Rathee, Additional Advocate General, Haryana, who is present in the Court, accepts notice on our asking. With the consent of the parties, matter is taken up for hearing and for final disposal.

The petitioner who has been working on the post of Inspector has challenged orders dated 27.10.2006 (P-14) restoring the punishment of stoppage of three increments with permanent effect awarded by the then Superintendent of Police, Faridabad, vide order dated 17.1.1999 (P-2), which was set aside by the then Director General of Police, Haryana, vide order dated 9.7.2001 (P-11) and all pecuniary benefits availed of by the petitioner have also been withdrawn with effect from 17.1.1999. Still further, a prayer has been made for quashing order dated 30.11.2006 (P-17) whereby the name of the petitioner has been removed from list 'F' and he has been ordered to be reverted from the post of Inspector to the that of Sub Inspector w.e.f. 23.1.2001, on which post he had already been confirmed w.e.f. 31.8.2003.

The controversy raised in the instant petition has earlier been considered by us in the cases of Const. Rishipal v. State of Haryana and others (C.W.P. No. 17778 of 2006, decided on 7.11.2006); Mehtab Singh v. State of Haryana and others (C.W.P. No. 17532 of 2006, decided on 7.11.2006); Devinder Kumar v. State of Haryana and others (C.W.P. No. 18712 of 2006, decided on 27.11.2006) and Satish Kumar v. State of Haryana and others (C.W.P. No. 18889 of 2006, decided on 30.11.2006). In the aforementioned judgments we have placed reliance on Rule 16.28 of the Punjab Police Rules, 1934, to conclude that the Director General of Police has not been vested with powers of review of its own order although he enjoys supervisory power for reversing the orders of his

subordinates. We have also held by placing reliance on the judgments of Hon'ble the Supreme Court in the cases of **Gadde Venkateswara Rai v. Government of Andhra Pradesh, AIR 1966 SC 828** and **M.C. Mehta v. Union of India, (1999) 6 SCC 237,** that once the Director General of Police has passed an illegal order then the later order passed by the successor DGP is not required to be interfered with as it would result into restoration of an earlier illegal order. Even the principles of natural justice are not required to be followed in such like situations. The matter is squarely covered.

The only argument raised by the learned counsel for the petitioner is that the initial order of punishment dated 17.1.1999 (P-2) passed by the Superintendent of Police is without jurisdiction and the same should have been passed by the Deputy Inspector General of Police in accordance with the view taken by the Division Bench of this Court in the case of Ram Lal v. State of Haryana and others (C.W.P. No. 8472 of 1995, decided on 13.1.1997, Annexure P-7). The aforementioned submission would not survive for consideration as the irregularity in passing the order by the Superintendent of Police has in any case been cured by the order dated 1.3.1999 passed by the Deputy Inspector General of Police, Gurgaon Range, Gurgaon, who has upheld the aforementioned order in appeal. Even otherwise the aforementioned issue was raised before the Director General of Police at the time of filing of revision petition by the petitioner, which was dismissed by the Director General of Police on 13.2.2001. Therefore, there is no room to conclude that the order passed by the

Superintendent of Police on 17.1.1999 is a still born order or an order without jurisdiction. The aforementioned order, in fact, attained finality on the dismissal of the revision petition of the petitioner by the Director General of Police on 13.2.2001.

For the reasons stated mentioned above, this petition fails and the same is dismissed. However, we restrain the respondents from making any recovery from the petitioner as he did not play any fraud or made any misrepresentation. In that regard, reliance may be placed on the judgment of Hon'ble the Supreme Court in the case of **Sahib Ram v. State of Haryana, 1995 (1) SCT 668**.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

December 8, 2006
Pkapoor